



Date: 20120619

Docket: IMM-8320-11

Citation: 2012 FC 775

Toronto, Ontario, June 19, 2012

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

**PETR MINO
VERONIKA HAUZROVA
MARIO GABRIEL MINO
DAMIAN MINO (A.K.A. DAMIAN HAUZR)**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] I am unable to accept the applicants' submissions that the decision of the Refugee Protection Division of the Immigration and Refugee Board dismissing their claim for protection was unreasonable either in its assessment of the credibility of Petr Mino, or on the availability of state protection.

Credibility

[2] The applicants submit that the omission in the narrative that the principal applicant went to see the Mayor is not a “critical fact” and should not have been considered fatal to the claim. I do not agree.

[3] Mr. Mino asserts that he went to see the Mayor to seek redress for the assaults he and his family had suffered because he was fed up with the lack of action by the police. This cannot be said to be a minor matter. Further, he testified that he and his wife reviewed the Personal Information Form (PIF) several times to ensure its accuracy. This makes the omission all the more telling. Moreover, it was not the only discrepancy relied upon by the Board in its credibility determination.

[4] The difference between the statement made in the PIF and the oral testimony as to whether Mr. Mino went to see the police with a Vietnamese co-worker after the workplace attack or whether the police were called to the hospital on the day of the attack by the hospital staff is also not a minor variation.

[5] Similarly, the failure to include in his PIF the fact that Mr. Mino had authorized the hospital to contact the police regarding the assault on his wife and the failure of the police to attend is also a critical event going to state protection. His explanation that he did not know why he omitted this event was an explanation the Board was entitled to reject.

[6] The Board was entitled to find that the applicants' testimony regarding the various assaults were "compelling, detailed and graphic" and yet challenge his credibility on other matters. Its assessment of his credibility was within the bounds of a reasonable decision when the record is viewed as a whole.

State Protection

[7] I am unable to accept the submission that the Board required persistent efforts when it stated that it expected the principal applicant to follow-up on his first complaint. Contrary to the situation in the authority relied upon by the applicants, *Codogan v Canada (Minister of Citizenship and Immigration)*, 2006 FC 739, in this case there was no reason why he could not reasonably have been expected to follow up with the authorities. As the Board noted: "In this case, the claimant did not go back to the police to check on the investigation and so in these circumstances, the claimant has not demonstrated he took all reasonable steps to seek state protection [emphasis added]." The Board, as the fact-finder, decided that a reasonable step would be to follow-up. I agree with the Board and see no reason why that is unreasonable in the circumstances of this case.

[8] The applicants' second argument that the Board failed to consider the inaction of the police following their three reports is completely without merit. First, there is nothing that leads me to believe that the Board did not consider the first report. Second, regarding the other two alleged reports, the submission fails to consider that the Board did not believe they were filed. The lack of state protection was due to the applicants' failure to seek it and it does not result from an inability or inadequacy of state protection.

[9] The final argument of the applicants is that the Board was selective in its choice of documentary evidence. They submit that the Board's decision is not sustainable because of this selective reliance: *Manoharan v Canada (Minister of Citizenship and Immigration)*, [1996] FCJ No 356 at para 3, *Muralidharan v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 843 and *Balasingham v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1387.

[10] I agree with the submission of the respondent that the Board weighed all the evidence before it; that it acknowledged that there was mixed evidence in some respects regarding the effective implementation of state efforts to protect Czech Roma, but found that on the whole the applicants had not rebutted the presumption. In my view, the submission of the applicants is fundamentally a request to reweigh the evidence; that is not the Court's role.

[11] For these reasons the application is dismissed. Neither party proposed a question for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that this application is dismissed and no question is certified.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8320-11

STYLE OF CAUSE: PETR MINO ET AL v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: June 6, 2012

**REASONS FOR JUDGMENT
AND JUDGMENT:** ZINN J.

DATED: June 19, 2012

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